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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/444,541	11/22/1999	PAUL R. GAGON	BBE1199CIP	8794
7	7590 09/15/2003			
FOLEY & LARDNER			EXAMINER	
3000 K STREET NW SUITE 500			LEE, PING	
P O BOX 25696			,	
WASHINGTON, DC 200078696			ART UNIT	PAPER NUMBER
			2644	
			DATE MAILED: 09/15/2003	4

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	09/444,541	GAGON, PAUL R.				
Office Action Summary	Examiner	Art Unit				
	Ping Lee	2644				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period w Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).  Status	36(a). In no event, however, may a reply be within the statutory minimum of thirty (30) of the statutory minimum of the statutory may be statutory minimum of the statutory may be statutory may a reply be statutory minimum of thirty (30) of the statutory minimum of thirty (30) of the statutory minimum of thirty (30) of thirty (3	timely filed days will be considered timely. om the mailing date of this communication. NED (35 U.S.C. § 133).				
1) Responsive to communication(s) filed on 22 h	lovember 1999 .					
2a) This action is <b>FINAL</b> . 2b) Thi	is action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims						
4)⊠ Claim(s) <u>1-17</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.	· · · · · · · · · · · · · · · · · · ·					
8) Claim(s) 1-17 are subject to restriction and/or election requirement.						
Application Papers						
9)☐ The specification is objected to by the Examiner.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11)☐ The proposed drawing correction filed on is: a)☐ approved b)☐ disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12) The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>						
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
<ul> <li>a) ☐ The translation of the foreign language provisional application has been received.</li> <li>15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</li> </ul>						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Inform	ary (PTO-413) Paper No(s) al Patent Application (PTO-152)				

## **DETAILED ACTION**

## Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: claims 1-17 are directed two embodiment as illustrated in figures 2-4.

Species 1, figure 2; and

Species 2, figures 3 and 4.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species with the appropriate figure(s) of the drawing that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
- 3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ping Lee whose telephone number is 703-305-4865. The examiner can normally be reached on Monday and Tuesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

imary Examiner

At Unit 2644

lwa

September 9, 2003